

The Four Firms that GCs Fear the Most

General counsel are pointing to four law firms they view as the most fearsomely competent litigators and the ones they least wish to see on the other side of the table, a survey released Wednesday revealed.

According to BTI Consulting Group's 2019 Litigation Outlook report, the so-called "Fearsome Foursome" — the quartet of firms "striking the utmost fear into the hearts of seasoned general counsel and legal decision makers" — are Gibson Dunn & Crutcher LLP, Kirkland & Ellis LLP, Quinn Emanuel Urquhart & Sullivan LLP and Skadden Arps Slate Meagher & Flom LLP.

"We wear that as a badge of honor," said Randy Mastro, co-chair of Gibson Dunn's litigation practice group. "It was Machiavelli who said it was better to be feared than loved, but we are both. We are feared by our adversaries and loved by our clients."

Quinn Emanuel is a new entrant to the group, while the other three firms held onto their top positions from last year's report.

"If there's a major dispute happening somewhere in the world, odds are we're involved," Quinn Emanuel partner Bill Urquhart said in a written statement. "That is because we achieve results that other firms don't. That is particularly true in the courtroom."

Mark Filip, a Kirkland partner and member of its global management executive committee, said in an email that the firm was honored to make the top tier once again.

"Kirkland's strengths are the work ethic, diversity and creativity of our lawyers ... we take great pride in teaming with clients to provide first-rate legal representation around the globe."

"Kirkland's strengths are the work ethic, diversity and creativity of our lawyers, and we take great pride in teaming with clients to provide first-rate legal representation around the globe," Filip said. "Kirkland tries and wins a lot of cases, and we believe that being ready to take a case to the judge and jury helps drive favorable settlements too. We also specialize in government and internal investigations, and handle those matters broadly in the United States and abroad."

The report lists a second tier of five angst-inducing firms, dubbed the "awesome opponents." They are Bartlit Beck Herman Palenchar & Scott LLP, Jones Day, Sidley Austin LLP, Wachtell Lipton Rosen & Katz and Winston & Strawn LLP.

Another firm, Morgan Lewis & Bockius LLP, appeared at the top of multiple other BTI lists of firms that do strong work in specific litigation segments. Managing partner Steven Wall told *Law360* he believed the firm's competitiveness was attributable to its emphasis on alternative fees and the lack of geographic boundaries and barriers between different practice areas.

"We bring the entire litigation function of Morgan Lewis, no matter where you might

be housed, to serve the client," Wall said. "Every day, we're using attorneys to staff where appropriate, and we're not beholden to some artificial boundary as to what practice group you actually belong to."

Especially with respect to the complex litigation that the survey recognized the firm for, Wall acknowledged that unchecked costs "can be like a runaway train." He emphasized that Morgan Lewis has worked with clients to provide them with more certainty and control over costs, in part through the use of alternative fees, which account for almost 30 percent of the firm's revenue, he said.

In addition to identifying clients' most admired firms, the survey also found that clients are expected to spend more on litigation matters across multiple practice areas for the second year in a row, a trend that is being driven by a surge in high-stakes complex work.

Large companies are eyeing increased litigation spending in 2019, particularly in intellectual property and class action matters, but also in commercial, employment, product liability and securities litigation, according to the report.

In total, clients are expected to add \$2.5 billion to their legal spending, and the number of matters is expected to grow by 6 percent in 2019. This continues a trend that began in 2018 of larger — and, for firms, more profitable — caseloads.

Between 2017 and 2018, the percentage of companies with high-stakes litigation more than doubled — from 24.6 percent to 62.7 percent — signaling that clients “are feeling more exposed than ever before,” the report said. Clients also reported smaller upticks in routine, complex and “bet-the-company” work.

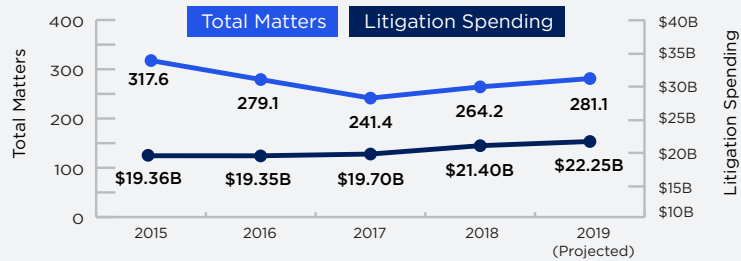
At the same time, the settlement rate is expected to maintain its downward slide. It sank from a seven-year high of 60.7 percent in 2017 to 43.6 percent in 2018 and is projected to reach 38.1 percent in 2019, the survey said.

“The settlement rates going down as a direct result of the increase in complexity,” according to Michael Rynowecer, founder of BTI Consulting. “There’s more issues at stake. There’s more exposure at stake. Companies see bigger risks that they either haven’t seen before or in recent memory. They don’t have the same thought process to lean on that they’ve leaned on the past seven years to get the settlement rate up. They feel like they need to spend more time evaluating the options.”

Even as clients prepare to pour more money into their legal representation, they report that on average they are planning to cut the number of firms they retain, Rynowecer said. The firms that are best positioned to win the lion’s share of the big-ticket work are those that engage with their clients on an ongoing basis and are more adept at selling clients on their ability to

Litigation On the Rise

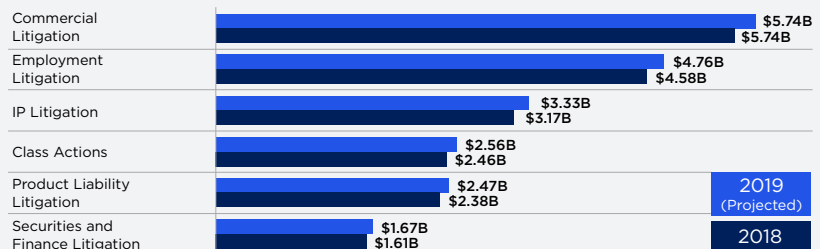
Clients plan to both spend more on litigation and pursue more matters in 2019.



Source: BTI Litigation Outlook 2019

The Practices in Demand

Class action and IP litigators are going to see the largest surges in demand, but litigation needs are expected to increase across the board.



Source: BTI Litigation Outlook 2019

address a company’s challenges holistically and preemptively.

“The ability to come in and address all of [a company’s potential exposures] in one conversation” will be crucial, Rynowecer said. “Not treating it as a single matter, but saying, ‘You’ve got these three other risks because of this one matter ... but here’s the strategy for containing that. Here’s the strategy for using our tools to try to avoid this, to try to contain it, to try to minimize the risk.’”

“Those are things that clients really want, and not every firm is comfortable doing that,” he added.

The survey is the result of more than 350 telephone interviews conducted between Jan. 11 and Aug. 28 with legal decision makers at companies with \$1 billion or more in revenue in the U.S., BTI said.



REPRINTED WITH PERMISSION FROM THE OCTOBER 17, 2018 EDITION OF LAW360 © 2018 PORTFOLIO MEDIA INC. ALL RIGHTS RESERVED. FURTHER DUPLICATION WITHOUT PERMISSION IS PROHIBITED.